

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MM Docket No. 98-35

In the Matter of )  
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1998 Biennial Regulatory Review - )  
Review of the Commission's Broadcast )  
Ownership Rules and Other Rules )  
Adopted Pursuant to Section 202 of )  
the Telecommunications Act of 1996 )

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TO: The Commission

JOINT COMMENTS OF PRESS COMMUNICATIONS LLC  
AND GREATER MEDIA, INC.

1. Press Communications LLC ("Press") and Greater Media, Inc. ("Greater Media") hereby submit these Joint Comments concerning certain aspects of the Commission's broadcast ownership rules relating primarily to television ownership. <sup>1/</sup>

2. Press is the licensee of Station WKCF(TV), Clermont, Florida, as well as several radio stations in New Jersey. Greater Media's subsidiaries are currently the licensees of radio stations in the Boston, Massachusetts; Philadelphia, Pennsylvania; Detroit, Michigan; and New Brunswick, New Jersey markets.

3. Both Press and Greater Media have, in recent years, expressed serious reservations about the increasing relaxation of the Commission's multiple ownership rules. That relaxation has led to the on-going consolidation of broadcast ownership in the hands of only a few very large companies. In the view of Press

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<sup>1/</sup> Simultaneously herewith, Press and Greater Media are filing separate comments focusing primarily on issues relating to radio ownership.

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and Greater Media, it is of paramount importance for the Commission to take stock now, to review the past, current, and likely future contours of the broadcast industry, and to act immediately to impose rational ownership limits designed to assure a robust, competitive, locally-oriented broadcast service in the public interest.

4. In particular, in connection with the development of more rational local ownership limits for television stations, the Commission should finally address the status of Local Marketing Agreements ("LMA's") insofar as those agreements affect diversity of local television programming. Of course, the Commission has formally recognized LMA's in the radio industry, treating LMA's as fully attributable interests for multiple ownership purposes. This makes sense, since LMA's generally afford the time broker/LMA operator sufficient input into station operations to influence programming diversity in the market.

5. But allowing LMA's in the television industry does not make sense. There is a crucial difference between radio and television in this regard. In radio, the Commission long ago determined that it is acceptable for a single licensee to own more than one radio station in a market: the number of separately-owned or -controlled stations operating in most markets generally prevents such common ownership from undermining the goal of diversity. As a result, common operation of two or more radio stations in a given market -- whether that operation derives from ownership of the stations or just through an LMA --

is tolerable.

6. By contrast, in television the Commission has never concluded that common ownership of two or more local television stations is acceptable. And yet, the Commission has allowed television LMA situations to persist in a largely unregulated manner. This presents a serious threat to diversity because the number of television stations in any given market is dramatically lower than the number of radio stations.<sup>2/</sup> As a result, any television duopoly will automatically have a greater adverse impact on local television diversity than would a radio duopoly in the same market. The result then is that, in the television industry, the Commission is allowing a substantially greater potential reduction in diversity than in the radio industry. That alone is bad enough. But that greater reduction is being allowed to occur through the largely unregulated mechanism of LMA's.

7. Allowing this situation to continue would be arbitrary and capricious on its face. How, after all, can the Commission justify a relatively tight set of controls on LMA's in the radio industry, but virtually no controls in the television industry? If diversity of programming is an important governmental interest

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<sup>2/</sup> With respect to the availability of television spectrum, the Commission should note that the UHF television band has actually shrunk over the years. While it originally extended out to Channel 80 and beyond, it was pared back to Channel 69 and, most recently, the highest ten channels were removed for use by other services. In other words, to the extent that spectrum scarcity ever justified government regulation, that justification has increased with respect to television as the spectrum available for television has become more, not less, scarce.

(as the Commission has generally held), the Commission's current approach makes absolutely no sense.<sup>3/</sup> The Commission should immediately declare that television LMA's are not to be permitted, and the Commission should take all appropriate steps to require the promptest possible termination of all outstanding television LMA's.

8. Another way in which the Commission could more reasonably ensure increased diversity of television programming would be to eliminate the UHF handicap afforded by Section 73.3555(e)(2)(i) of the rules. In an effort to promote national program diversity through ownership caps, Section 73.3555(e) limits television ownership to stations with an aggregate audience reach of 35%. "Audience reach" is calculated on the basis of the total number of television households in the relevant ADI markets, but only with respect to VHF stations; by contrast, UHF stations are attributed only 50% of the television households in their respective ADI markets. See Section 73.3555(e)(2)(i). In other words, a UHF licensee could conceivably own stations in twice as many markets as a VHF licensee who had already hit the 35% cap.

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<sup>3/</sup> In this context, the term "diversity of programming" is used in its broadest sense. That is, Press and Greater Media are not addressing "diversity" in any racial or ethnic sense. Rather, "diversity" is intended to refer to programming from different sources. Where a single individual/entity controls the programming on two stations in a market, the audience in that market loses as "diversity" -- that is, the availability of different, competing sources of programming -- is diminished. In view of the fact that television news is an important source of information to the public, this diminution is especially undesirable.

9. This handicapping reflects the Commission's historical interest in assuring a kind of parity between the well-established VHF industry with its very strong signals and the fledgling UHF industry, whose weaker signals supposedly prevent UHF stations from reaching audiences as effectively as their VHF counterparts.

10. Whatever merit that antiquated notion may once have had has long since disappeared. While under-facilitied UHF stations may have been a common phenomenon at the birth of UHF television, they are far less so now -- to the contrary, UHF stations appear easily capable of delivering a strong signal to their markets. Perhaps more importantly, with cable carriage any UHF station becomes virtually identical in reach to any VHF station. In other words, the original basis for the handicap appears to have fallen away.

11. These practical considerations are bolstered by a readily foreseeable future factor. As we approach conversion to digital television, we also approach conversion to, effectively, an entirely UHF industry, since DTV allocations are for the most part UHF channels. Once that occurs, the 35% limit automatically becomes a 70% limit if the entire industry, operating on UHF channels, is entitled to the 50% handicap. <sup>4/</sup>

12. Clearly, substantial overhaul (if not outright

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<sup>4/</sup> In view of the fact that a number of new national networks are forming based on UHF, and not VHF, stations -- PaxNet being the most prominent example -- the possibility is very real that one or more entities could ultimately attain national audience reach of 70%, if the UHF handicap remains in place.

elimination) of the UHF handicap in its present form is in order. While stations which, as a matter of demonstrable fact, are unable to reach (either over-the-air or by cable carriage) at least 51% of the households in their markets should probably be accorded some special treatment, all stations which are able to reach at least 51% of their market households should be treated exactly equally for multiple ownership purposes. Otherwise, diversity of television programming on a national scale will be lost, as the 50% handicap originally intended to foster diversity through the promotion of the UHF industry turns into a huge loophole destroying diversity.

13. A further aspect of the multiple ownership rules which warrants attention is the Commission's treatment of familial relationships. The Commission has historically regarded such relationships as giving rise, at least potentially, to attributable broadcast interests. Applicants have supposedly had the burden of establishing that, despite some close family relationship, broadcast interests held by different family members will be independently owned and operated. See, e.g., Clarification of Commission Policies Regarding Spousal Attribution, 7 FCC Rcd 1920, 1922 (1992).

14. However, the degree of scrutiny actually applied by the Commission to family-based common ownership situations seems less than clear and less than effective in preventing the aggregation of broadcast licenses under the control of a single individual or entity seeking to take advantage of the Commission's less-than-

aggressive posture vis-à-vis family relationships. That is, the Commission appears willing simply to take applicants at their word that family relationships will not lead to interwoven influence of control over stations supposedly controlled by separate licensees.

15. While such an approach may have made sense at one time when, arguably, there was only a very limited historical record against which to measure the applicants' assertions, that time has gone. Now, years down the road, the Commission can and should review the various ownership situations which it has approved involving supposedly independent family members. In particular, the Commission should check to see whether those situations really do demonstrate that the stations have been independently operated, or whether, by contrast, there is any indication that the licensees have simply used the Commission's lax approach to family relationships as a means of acquiring control of stations which might not otherwise have been permitted. Following that review, the Commission should announce with precision the standards it will apply to family-relationship situations and how it will apply them.

16. Again, the need for such review in the television industry is especially acute: in view of the relatively limited number of television stations in toto, any inappropriate aggregation of ownership has a commensurately greater impact on the industry and the public as a whole.

17. Press and Greater Media are aware of the concerns

expressed by some Commissioners relative to the seemingly low levels of minority ownership in the broadcast industry. Whatever the causes of those levels, the fact is that increasing consolidation will serve only to reduce those levels further. By facilitating consolidation, the Commission effectively encourages all relatively small licensees to sell out to large licensees, thus reducing the number of stations generally available to new market entrants. The more the industry becomes consolidated, fewer stations are available to minorities and others not already represented in the ranks of broadcast ownership. So if the Commission really does believe that racial diversity of ownership is a good thing to be encouraged, the Commission should take appropriate steps to slow consolidation.

18. The broadcasting industry has throughout its history provided the public with diverse streams of information which have helped to power the democratic process. They have provided the raucous cacophony of voices which have whispered and shouted, cajoled and convinced. From that din, the public has had the opportunity to pick and choose, assess, accept or reject, and ultimately come to its own opinions about matters subjected to the crucible of public debate. But as consolidation of broadcast ownership increases, many of those streams of information are drying up while others merge to form large placid pools of non-competing, commonly-owned stations. The barbaric yawp of competing voices is being replaced by the dull monotone of the commonly-owned. This on-going development, while providing



financial benefits to a few, constitutes a threat to the greater good. The Commission should do what it can now to prevent any further loss of diversity.

Respectfully submitted,

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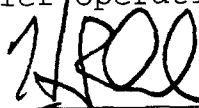
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